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December 22, 2009

**By ECF**

The Honorable Frederic Block  
Senior United States District Judge  
U.S. District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Roy Den Hollander v. Deborah Swindells Donovan, et al.  
Case No.: 08-cv-4045 (FB)(LB)  
Our File No.: MGT 8010359

Dear Judge Block:

We represent defendant Deborah Swindells Donovan ("Donovan") in the above-referenced matter. We write to seek clarification and guidance from the Court concerning the cross-motion for summary judgment filed by Plaintiff Roy Den Hollander ("Plaintiff").

We understand the Court's *Memorandum and Order* dated November 18, 2009 (the "Order") as converting Donovan's motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(1) and (6) into one for summary judgment pursuant to Fed. R. Civ. P. 56. No provision is made in the Order permitting Plaintiff to cross-move for summary judgment. We therefore expected Plaintiff to file his papers on December 18, 2009 as opposition papers to Donovan's converted motion, not to initiate his own motion.

Accordingly, we respectfully request clarification with respect to whether the Court intends to treat Plaintiff's cross-motion for summary judgment as an affirmative motion by Plaintiff or as an opposition to Donovan's summary judgment motion. Should the Court deem Plaintiff's submission a cross-motion for summary judgment, we respectfully request an opportunity to respond.

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We thank Your Honor for considering this request. Should Your Honor require anything else, please do not hesitate to contact us.

Respectfully submitted,

GORDON & REES LLP

A handwritten signature in blue ink, appearing to read "Diane Krebs", enclosed within a large, loopy circular flourish.

Diane Krebs

DK: jsh

cc: Via ECF and US Mail  
Roy Den Hollander, Esq.  
Paul W. Steinberg, Esq.